

REMARKS / ARGUMENTS

I. General Remarks and Disposition of the Claims

Please consider the application in view of the following remarks. Applicants thank the Examiner for his careful consideration of this application, including the references Applicants have submitted in this application and, pursuant to Manual of Patent Examining Procedure (MPEP) § 609.02, all references submitted in the patent application to which this application claims priority under 35 U.S.C. § 120.

At the time of the Office Action, claims 1-38 were pending in this application, claims 7, 11-38 having been withdrawn from consideration. Claims 1-6 and 8-10 were rejected in the Office Action. In this response, claims 1, 5, 6 and 8 have been amended, support for which can be found, for example, in the claims as originally filed. Claim 4 has been canceled without prejudice or disclaimer.

Applicants respectfully request that the above amendments be entered and further request reconsideration in light of the amendments and remarks contained herein.

II. Status of July 10, 2009 Office Action

The Office Action Summary indicates that the July 10, 2009 Office Action is Final. No remarks were included, however, regarding the finality of the Office Action. PAIR indicates that Office Action is non-Final. A inquiry was made with the Examiner. The Examiner confirmed in a December 3, 2009 call to Elizabeth Durham, that the July 10, 2009 Office Action was indeed non-Final.

In the unlikely event that the July 10, 2009 Office Action is deemed Final, Applicants conditionally Request Continued Examination and authorize the Office to debit Charge Account No. 02-0383 for the required fee under 37 CFR 1.114.

III. Remarks Regarding Rejection Under 35 U.S.C. § 102

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0013871 to Mallon *et al.* (hereinafter "*Mallon*"). With respect to this rejection, the Final Office Action states:

Applicant's primary argument in Response traversing the captioned rejection is that Mallon allegedly does not disclose the hydrophobic group to contain the number of carbons in an alkyl side chain as the water-soluble polymer of the present invention. However, as discussed above in the present action, Mallon expressly discloses its hydrophobically-modified water-soluble

hydrophilic polymer (cellulose backbone/ether substituent) to be modified with an alkyl halide/oxide compound having 8 to 24 carbons. Accordingly, Mallon is disclosing hydrophobically-modified water-soluble hydrophilic polymer containing an alkyl side chain having a number of carbons within the range recited in independent claim 1, as amended.

(Office Action, page 5).

While not necessarily agreeing with the Examiner's position, and solely to advance prosecution, claim 1 has been amended to recite a hydrophobically modified polymer that is a reaction product of a hydrophobic compound selected from a sulfonate, a sulfate, and an organic acid derivative and a hydrophilic polymer that comprises a polymer backbone that comprises polar heteroatoms. *Mallon* does not disclose this limitation.

Therefore, Applicants respectfully assert that independent claim 1 and its dependent claims are not anticipated by *Mallon*. Accordingly, Applicants respectfully request withdrawal of this rejection with respect to claims 1-6 and 8-10.

IV. No Waiver

All of Applicants' arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art.

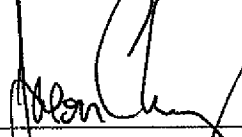
SUMMARY

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Should the Commissioner deem that any fees are due, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional

fees be charged to Baker Botts, L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.0411.

Respectfully submitted,



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